UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,774	07/24/2003	Sean Cullinan	3822-003-27	7859

24510 7590 05/01/2008

DLA PIPER US LLP
ATTN: PATENT GROUP
500 8th Street, NW
WASHINGTON, DC 20004-2131

EXAMINER	
BEHARRY, NOEL R	

ART UNIT	PAPER NUMBER
4122	

MAIL DATE	DELIVERY MODE
05/01/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/625,774	CULLINAN ET AL.	
	Examiner	Art Unit	
	NOEL BEHARRY	4122	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *07/24/2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-26* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3,5,12-18,20* is/are rejected.

7)☒ Claim(s) *4,6-11,19 and 21-26* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *24 July 2003* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *11/12/2003*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This communication is in response to Application No. 10/625,774 filed 07/24/2003, claims 1, 3-6, 11-12, 14, 16, 18-21, and 26 were examined under priority from U.S. Provisional Application No. 60/398,609, filed July 26, 2002, and claims 2, 7-10,13, 15, 17, 22-25 were examined under this application filed 07/24/2003.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 100. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

3. Claims 4, 6, 7 (and 8-9 by virtual dependency thereof), 10 (and 11 by virtual dependency thereof), 19, 21, 22 (and 23-24 by virtual dependency thereof) and 25 (and 26 by virtual dependency thereof) are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim Rejections - 35 USC § 101

4. Claims 16-26 are rejected under 35 U.S.C. 101 which reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 16-26 are rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter.

In this case, for example claim 16 recites, "a computer program product comprising a computer usable medium having control logic stored therein for causing a computer to selecting encoding parameters for the transmission of media objects from a processing device over a communications network, said control logic comprising: ..." would normally be considered statutory unless the specification defines "computer readable medium" as including intangible media such as signals, carrier waves,

transmissions, optical waves, transmission media or other media incapable of being touched or perceived absent the tangible medium through which they are conveyed.

Claims 16-26 are not limited to tangible embodiments. Specifically, in view of the specifications page 18, lines 15-17, the computer-readable medium/media is not limited to tangible embodiments, instead it has been defined/exemplified as including both tangible embodiments [e.g. removable storage drive, hard disk] and intangible embodiments [e.g. signals or transmission or carrier medium/media]. As such the claim is not limited to statutory subject matter and is therefore non statutory.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 1-2, 5, 12-18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aharoni et al (US 6,014,694) (Aharoni hereafter), in view of Milkey et al (US 2005/0273514) (Milkey hereafter), and further in view of Krebs (US 5,557,320).

Regarding claim 1, Aharoni teaches determining a bandwidth value for transmitting said media object over the communications network; (Col 19, Line 52)

calculating a plurality of encoding time values (To transmit...would take approximately 22 hours, Col 1, Line 35-39), each reflective of the time to encode said media object using one of a plurality of resolution (resolution of 640x480) and frame rate (30fps) combinations; (Col 1, Line 35-39)

calculating a plurality of bit rates (Levels), each corresponding to one of said plurality of said bandwidth; (Col 12, Line 3-6, Line 42-51)

and receiving a second input indicative of a selection of one of said plurality of bit rates (levels), wherein said media object (packets) is transmitted over the communications network (network connection) using one of said plurality of resolution and frame rate combinations (level of video transmission quality) corresponding to said selected bit rate (level) (Col 8, Line 2-6).

Aharoni does not teach determining a play duration value for a media object to be transmitted over the communications network; nor receiving a first input indicative on a deadline time value in which said media object must be transmitted over the communications network;

Milkey teaches receiving a first input indicative on a deadline time value in which said media object must be transmitted over the communications network (714 of Fig. 7).

It would have been obvious to one of ordinary skilled in the art at the time the invention was made given the suggestions of Aharoni for transporting media over a network the teachings of Milkey for transferring files among devices in a network would have been readily apparent. One of ordinary skilled in the art would be motivated to

combine the teachings of Milkey for selecting a deadline time for delivery with the teachings of Aharoni for adjusting the compression ratio to accommodate the bandwidth, to be able to further adjust the compression ratio so that the media may be transmitted by a deadline time.

Aharoni nor Milkey teaches determining a play duration value for a media object to be transmitted over the communications network;

Krebs teaches determining a play duration value for a media object to be transmitted over the communications network; (1 of Fig. 4)

It would have been obvious to one of ordinary skilled in the art at the time the invention was made given the suggestions of Aharoni for transporting media over a network, the teachings of Krebs for video mail delivery system would have been readily apparent. One of ordinary skilled in the art would be motivated to apply the teachings of Krebs for requesting the file duration to the teachings of Aharoni for determining the amount of video information waiting to be displayed to be able to efficiently transmit the media over the network given the limited time and bandwidth.

Regarding claim 2, wherein said bandwidth value is determined by querying a network adaptor located within the processing device. (Milkey; Par. 0042, Line 8-16)

Regarding claim 5, receiving at least a third input indicative of metadata associated with said media object; (Milkey; metadata are attached to files, Par. 0027, Line 12-14) and

linking said metadata with said media object (files), wherein said metadata is transmitted with said media object over the communications network. (Milkey; Par. 0027, Line 10-14)

Regarding claim 12, substantially the same as claims 1 and 16, same rationale of rejection is applicable. Further limitations include:

Database (video mail boxes, Krebs; Col 5, Line 22-26) for storing a plurality of encoding time values (To transmit...would take approximately 22 hours, Col 1, Line 35-39) corresponding to a plurality of resolution (resolution of 640x480) and frame rate (30fps) combinations (Aharoni; Col 1, Line 35-39), and a plurality of bit rates (levels) each corresponding to one of said plurality of resolution and frame rate combinations(level of video transmission quality); (Col 8, Line 2-6) and

a processing device (video computer system, Kreb; Col 6, Line 16-18), comprising:

a network adapter connected to a communications network; (interface to T1 Line, Krebs; Col 6, Line 20-25) and

a processor (video computer system, Krebs; Col 6 Line 16-18), wherein said processor is configured to perform the steps of:

Regarding claim 13, this claim is substantially the same as claims 2 and 17; same rationale of rejection is applicable.

Regarding claim 14, wherein said communications network comprises at least a portion of the Internet. (Milkey; Par. 0023, Line 3-6)

Regarding claim 15, wherein said communications network comprises at least a portion of the PSTN. (Krebs; Col 4, Line 42-45)

Regarding claim 16, this claim is substantially the same as claims 1 and 12; same rationale of rejection is applicable.

Regarding claim 17, this claim is substantially the same as claims 2 and 13; same rationale of rejection is applicable.

Regarding claim 18, this claim is substantially the same as claims 3; same rationale of rejection is applicable.

Regarding claim 20, this claim is substantially the same as claims 5; same rationale of rejection is applicable.

8. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aharoni and Milkey in view of Krebs in further view of King et al. (US 6,477,707) (King hereafter).

Regarding claim 3, the above mentioned prior art do not explicitly teach wherein said bandwidth value is determined by receiving a third input from a user via a graphical user interface on the processing device.

King teaches wherein said bandwidth value is determined by receiving a third input from a user via a graphical user interface on the processing device (col 16, see claim 9).

It would have been obvious to one of ordinary skilled in the art at the time the invention was made given the suggestions of Aharoni, Milkey and Krebs for transmitting media over a network, the teachings of King for broadcasting transmission of media would have been readily apparent. One of ordinary skilled in the art would be motivated to apply the teachings of King with the teachings of the prior art to allow a user to specify a bandwidth value via a GUI.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NOEL BEHARRY whose telephone number is (571) 270-5630. The examiner can normally be reached on Mon-Fri 7:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beatriz Prieto can be reached on (571)272-3902. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/NB/
NOEL BEHARRY
Examiner
Art Unit 4122

/BEATRIZ PRIETO/
Supervisory Patent Examiner, Art Unit 4122